

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3
4 Joni M. Costello,

5 Plaintiff

6 v.

7 Democracy Prep Agassi Campus, et.al.,

8 Defendant

Case No.: 2:17-cv-2491-JAD-VCF

**Order Denying Motion to Consolidate;
Order to Show Cause Why this Case Should
Not Be Dismissed as Duplicative**

[ECF No. 13]

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11 Plaintiff Joni M. Costello moves for consolidation of her earlier-filed case, 2:17-cv-2490-
12 KJD-GWF, into this second-filed case.¹ She represents that a snafu resulted in two cases being
13 opened instead of just one, and she asks that her fees for the earlier-filed case be refunded and
14 that she be permitted to proceed with this second-filed case.

15 The rule in this district is that cases may be consolidated into the earliest-filed case, not
16 the second-filed case,² and Judge Dawson—the presiding judge in the first-filed of Costello’s
17 cases—already denied her request for consolidation.³ Were consolidation appropriate in this
18 case, it would be the consolidation of this case into the one before Judge Dawson. But it does
19 not appear that consolidation is appropriate. This is not a situation in which two separate actions
20 involve common questions of law or fact. As plaintiff, herself, explains in her motion, this case
21 was opened to correct “a system bug or clerical error on the part of [her] counsel,” not with the
22 intention of prosecuting two cases. The solution should have been to correct the error in the
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26 ¹ ECF No. 13.

27 ² L.R. 42-1(b).

28 ³ See 2:17-cv-02490-KJD-GWF at ECF No. 7.

1 initial case, not to file a second one. And plaintiff admits that these two actions are now
2 “duplicative,” and she asks for a refund of the “duplicative complaint filing fees.”⁴

3 It thus appears that the proper course of action is to dismiss this second-filed case as
4 duplicative. If plaintiff disagrees, she has until January 12, 2018, to show cause why this case
5 should not be dismissed as duplicative.

6 Accordingly, IT IS HEREBY ORDERED THAT:

- 7 • The motion to consolidate [ECF No. 13] is **DENIED**;
- 8 • Plaintiff is **ORDERED TO SHOW CAUSE by 1/12/18 why this case should**
9 **not be dismissed as duplicative.** If plaintiff does not show cause by this
10 deadline, this case will be dismissed without further prior notice as duplicative.

11 Dated this 2nd day of January, 2018.

12 
U.S. District Judge Jennifer A. Dorsey

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28 ⁴ ECF No. 13 at 3.